

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #7	CCRB Case #: 201802431	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 03/25/2018 6:13 PM	Location of Incident: [REDACTED]	Precinct: 48	18 Mo. SOL 9/25/2019	EO SOL 9/25/2019	
Date/Time CV Reported Wed, 03/28/2018 2:30 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 03/28/2018 2:30 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Luis Alicea	09537	951489	048 PCT
2. POM Miguel Donovan	27770	950341	048 PCT
3. POF Sandra Martinez	04343	955139	048 PCT
4. POM Robert Wichers	16306	958169	048 PCT
5. POF Curtia Whitehead	31605	953566	048 PCT
6. POF Jennifer Alvarado	21236	962922	048 PCT
7. POM Richard Mcknight	07955	955170	048 PCT
8. CPT Emilio Melendez	00000	898059	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Nicholas McGarry	00429	949302	048 PCT
2. POM Janert Gil	18305	951771	048 PCT
3. POM Richard Urbina	10787	918429	048 PCT
4. POM Keith Kelly	17825	960752	048 PCT
5. POF Karen Diazrodriguez	02721	961515	048 PCT
6. POM Steve Gouridine	11999	960611	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
7. POF Leslie Aucancela	01952	961628	046 PCT
8. POF Katherine Torres	04014	959309	046 PCT
9. POM Agon Pukaj	03404	962029	046 PCT
10. POM David Smart	31388	939483	048 PCT
11. LSA Samuel Ravelo	00000	907731	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Richard Mcknight	Force: Outside of 4646 Park Avenue in the Bronx, Police Officer Richard McKnight used physical force against § 87(2)(b)	
B.POM Richard Mcknight	Discourtesy: Outside of 4646 Park Avenue in the Bronx, Police Officer Richard McKnight spoke discourteously to § 87(2)(b)	
C.POM Luis Alicea	Discourtesy: On § 87(2)(b) between Park Avenue and Third Avenue in the Bronx, Police Officer Luis Alicea spoke discourteously to an individual.	
D.POF Sandra Martinez	Discourtesy: On § 87(2)(b) between Park Avenue and Third Avenue in the Bronx, Police Officer Sandra Martinez spoke discourteously to § 87(2)(b)	
E.POF Sandra Martinez	Abuse: On § 87(2)(b) between Park Avenue and Third Avenue in the Bronx, Police Officer Sandra Martinez threatened § 87(2)(b) with the use of force.	
F.POM Robert Wichers	Force: At Flood Triangle in the Bronx, Police Officer Robert Wichers used physical force against § 87(2)(b)	
G.POF Sandra Martinez	Force: At Flood Triangle in the Bronx, Police Officer Sandra Martinez struck § 87(2)(b) with a radio.	
H.POF Sandra Martinez	Force: At Flood Triangle in the Bronx, Police Officer Sandra Martinez used physical force against § 87(2)(b)	
I.POM Miguel Donovan	Discourtesy: At Flood Triangle in the Bronx, Police Officer Miguel Donovan spoke discourteously to § 87(2)(b)	
J.POM Miguel Donovan	Off. Language: At Flood Triangle in the Bronx, Police Officer Miguel Donovan made remarks to § 87(2)(b) based upon race.	
K.POM Miguel Donovan	Force: At Flood Triangle in the Bronx, Police Officer Miguel Donovan used physical force against § 87(2)(b)	
L.POF Curtia Whitehead	Discourtesy: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead spoke discourteously to § 87(2)(b)	
M.POF Curtia Whitehead	Discourtesy: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead spoke discourteously to § 87(2)(b)	
N.POF Curtia Whitehead	Discourtesy: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead spoke discourteously to § 87(2)(b)	
O.POF Jennifer Alvarado	Discourtesy: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado spoke discourteously to § 87(2)(b)	
P.POF Jennifer Alvarado	Discourtesy: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado spoke discourteously to § 87(2)(b)	
Q.POF Jennifer Alvarado	Discourtesy: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado spoke discourteously to § 87(2)(b)	
R.POF Curtia Whitehead	Force: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
S.POF Curtia Whitehead	Force: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead used physical force against § 87(2)(b)	
T.POF Curtia Whitehead	Force: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead used physical force against § 87(2)(b)	
U.POF Jennifer Alvarado	Force: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado used physical force against § 87(2)(b)	
V.POF Jennifer Alvarado	Force: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado used physical force against § 87(2)(b)	
W.POF Jennifer Alvarado	Force: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado used physical force against § 87(2)(b)	
X.POF Sandra Martinez	Abuse: At Flood Triangle in the Bronx, Police Officer Sandra Martinez did not obtain medical treatment for § 87(2)(b)	
Y.CPT Emilio Melendez	Discourtesy: At Flood Triangle in the Bronx, Captain Emilio Melendez spoke discourteously to individuals.	
§ 87(4-b), § 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint with IAB via telephone on March 25, 2018, generating original log #18-11564. § 87(2)(b) and his sons, § 87(2)(b) and § 87(2)(b) then filed this complaint in-person at the CCRB on March 28, 2018. The IAB log was received at the CCRB on April 4, 2018.

On March 25, 2018, at approximately 6:13 PM, § 87(2)(b) called 911 and reported that two individuals had robbed him inside of 4646 Park Avenue in the Bronx. Officers assigned to the 48th Precinct Anti-Crime team, who were on patrol in the area, encountered § 87(2)(b) and § 87(2)(b) at the intersection of Park Avenue and East 187th Street in the Bronx. The brothers matched § 87(2)(b)'s descriptions of the perpetrators, and when § 87(2)(b) and § 87(2)(b) fled in opposite directions, the officers pursued.

PO Richard McKnight of the 48th Precinct Anti-Crime team pursued § 87(2)(b) and caught up to him outside of 4646 Park Avenue in the Bronx. There, PO McKnight lifted § 87(2)(b) and forcefully pushed him against a parked vehicle (**Allegation A: Force**, § 87(2)(g)). When § 87(2)(b) told PO McKnight that he had run because he was scared, PO McKnight allegedly said, "Don't give me that bullshit" (**Allegation B: Discourtesy**, § 87(2)(g)). PO McKnight then placed § 87(2)(b) in handcuffs.

Meanwhile, PO Luis Alicea, PO Sandra Martinez, and PO Janert Gil of the 48th Precinct Anti-Crime team pursued § 87(2)(b) who ran eastbound along § 87(2)(b) in the Bronx. PO Martinez and PO Gil pursued § 87(2)(b) on foot while PO Alicea pursued in a vehicle. From inside of the vehicle, via the loudspeaker, PO Alicea allegedly said to the unidentified driver of another vehicle, "Get the fuck out of the way. Move the fucking car" (**Allegation C: Discourtesy**, § 87(2)(g)). Additionally, as the officers pursued, PO Martinez allegedly said to § 87(2)(b) "Stop running motherfucker, before I Tase you" (**Allegation D: Discourtesy**, § 87(2)(g); **Allegation E: Abuse of Authority**, § 87(2)(g)).

PO Wichers of the 48th Precinct Anti-Crime team joined PO Martinez and PO Gil in pursuing § 87(2)(b) on foot. § 87(2)(b) who realized that he could not evade the officers, sat down on a park bench within Flood Triangle, a small triangular park bordered by Third Avenue, Washington Avenue, and East 188th Street in the Bronx. As § 87(2)(b) sat still, PO Wichers allegedly tackled him, knocking him sideways onto the bench (**Allegation F: Force**, § 87(2)(g)). PO Martinez then allegedly struck § 87(2)(b) on the left side of the mouth with her radio (**Allegation G: Force**, § 87(2)(g)) and allegedly punched him on the left cheek (**Allegation H: Force**, § 87(2)(g)). The officers then placed § 87(2)(b) in handcuffs.

§ 87(2)(b) (the mother of § 87(2)(b) and § 87(2)(b) and their neighbors § 87(2)(b) and § 87(2)(b) then arrived at Flood Triangle. Sgt. Nicholas McGarry and PO Miguel Donovan of the 48th Precinct Anti-Crime team also arrived on scene. PO Donovan allegedly said to § 87(2)(b) "Back the fuck up," and, "We know that's your fucking son" (**Allegation I: Discourtesy**, § 87(2)(g)), as well as, "This nigga got knives on him" (**Allegation J: Offensive Language**, § 87(2)(g)). PO Donovan also allegedly shoved § 87(2)(b) (**Allegation K: Force**, § 87(2)(g)).

Numerous uniformed patrol officers assigned to both the 46th and 48th Precincts also arrived on scene. Among them were PO Curtia Whitehead and PO Jennifer Alvarado of the 48th Precinct. Both PO Whitehead and PO Alvarado allegedly said to § 87(2)(b) and § 87(2)(b) “Get the fuck back,” (**Allegation L: Discourtesy**, § 87(2)(g); **Allegation M: Discourtesy**, § 87(2)(g); **Allegation N: Discourtesy**, § 87(2)(g); **Allegation O: Discourtesy**, § 87(2)(g); **Allegation P: Discourtesy**, § 87(2)(g); **Allegation Q: Discourtesy**, § 87(2)(g)), and allegedly pushed § 87(2)(b) and § 87(2)(b) (**Allegation R: Force**, § 87(2)(g); **Allegation S: Force**, § 87(2)(g); **Allegation T: Force**, § 87(2)(g); **Allegation U: Force**, § 87(2)(g); **Allegation V: Force**, § 87(2)(g); **Allegation W: Force**, § 87(2)(g)).

When § 87(2)(b) and § 87(2)(b) of SeniorCare EMS arrived on scene in an ambulance, PO Martinez allegedly prevented the EMTs from providing § 87(2)(b) with medical attention (**Allegation X: Abuse of Authority**, § 87(2)(g)). Further, Cpt. Emilio Melendez of the 46th Precinct, the acting duty captain for Patrol Borough Bronx, arrived on scene. In regard to nearby civilian bystanders, Cpt. Melendez allegedly said, “Get their fucking asses across the street” (**Allegation Y: Discourtesy**, § 87(2)(g)).

Ultimately, after PO McKnight transported § 87(2)(b) to Flood Triangle, officers conducted a show-up, during which § 87(2)(b) the victim of the robbery, positively identified § 87(2)(b) and § 87(2)(b) as his assailants. PO Alicea arrested § 87(2)(b) and § 87(2)(b) for § 87(2)(b), § 87(2)(a).

The investigation obtained surveillance video capturing § 87(2)(b)'s arrest outside of 4646 Park Avenue in the Bronx and body-worn camera videos recorded by PO Whitehead, PO Richard Urbina of the 48th Precinct, and PO Matthew Kelly of the 48th Precinct, which captured interactions at Flood Triangle.

Findings and Recommendations

Allegation A—Force: Outside of 4646 Park Avenue in the Bronx, Police Officer Richard McKnight used physical force against § 87(2)(b)

In the 911 call that generated the job that lead to the officers pursuing § 87(2)(b) and § 87(2)(b) the 911 caller breathes heavily and says that someone tried to jump him and took his stuff at 4646 Park Avenue in the Bronx. He claims he was punched and that the perpetrators stole his bookbag. There were three perpetrators: two males and a female. The males were both black and approximately 19 or 19 years old. In the subsequent radio communications, multiple units from the 46 and the 48 Precinct canvass the area. A sergeant from the 48 Precinct then confirms that there is a positive ID and there are two under arrest. (Board Review 20) § 87(2)(b) and § 87(2)(b) were subsequently arrested for robbery.

§ 87(2)(b) (Board Review 01) stated that he was standing on the corner of Park Avenue and East 187th Street in the Bronx with his brother § 87(2)(b) and § 87(2)(b) when he saw PO Wichers and PO McKnight approach in a vehicle. He was familiar with PO Wichers from a previous arrest. When PO Wichers exited the vehicle, § 87(2)(b) ran southbound along Park Avenue. § 87(2)(b) was carrying a scalpel in his zippered sweatpants pocket for protection from rival gang members. § 87(2)(b) became frightened because he was carrying the scalpel, and

ran by himself, leaving § 87(2)(b) and § 87(2)(b) at the intersection of Park Avenue and East 187th Street.

PO Wichers pursued on foot. When § 87(2)(b) later looked behind him, he saw that PO Wichers had changed direction and was running away from him, northbound along Park Avenue.

§ 87(2)(b) continued along Park Avenue and made a left on East 186th Street, where he ran to the entrance of 4646 Park Avenue. He rang the bell to a friend's apartment and waited for the door to be unlocked via buzzer. However, PO McKnight reversed along East 186th Street and came to a sudden stop in front of the entrance to 4646 Park Avenue, where § 87(2)(b) was waiting at the door.

PO McKnight exited the vehicle and ran toward § 87(2)(b). § 87(2)(b) attempted to avoid PO McKnight by sidestepping, but could not evade him. § 87(2)(b) stopped moving and raised his hands in the air. PO McKnight took hold of the rear of § 87(2)(b)'s jacket and § 87(2)(b)'s left arm, lifted him up off of the ground, and carried § 87(2)(b) at a running pace to a vehicle parked in front of the entrance to 4646 Park Avenue. PO McKnight then "slammed" § 87(2)(b)'s right side onto the roof of the vehicle. PO McKnight did not attempt to place § 87(2)(b) in handcuffs before doing so. § 87(2)(b) raised his right arm to brace for the impact, causing his ribs on his right side to strike the vehicle.

Later, upon arrival at Bronx Central Booking, § 87(2)(b) complained of pain to his ribs. He was returned to the 48th Precinct stationhouse. Officers transported him to § 87(2)(b) on March 26, 2018.

According to medical records from § 87(2)(b) (Privileged Documents; Board Review 02), § 87(2)(b) complained of sharp pain to his ribs on the right side due to having been "slammed" onto a car after a police pursuit. The records indicate that § 87(2)(b) experienced muscle tenderness, did not require x-rays, and was treated with ibuprofen.

The investigation received negative results for a medical treatment of prisoner report from both the 48th Precinct (Board Review 03) and from Bronx Court Section (Board Review 04).

PO McKnight (Board Review 05) stated that when § 87(2)(b) turned and ran away from PO Wichers, PO McKnight, still in his vehicle, reversed southbound along Park Avenue in pursuit. § 87(2)(b) then ran to the entrance of 4646 Park Avenue and pulled on the door but was unable to enter. PO McKnight exited his vehicle and identified himself as a police officer. As he approached, he told § 87(2)(b) to show his hands and to place his hands behind his back. Immediately in front of the entrance to 4646 Park Avenue, PO McKnight took hold of § 87(2)(b)'s arm in order to place him in handcuffs. § 87(2)(b) pulled away, but PO McKnight maneuvered him onto the sidewalk, away from the door. § 87(2)(b) then complied. PO McKnight pulled § 87(2)(b)'s arms behind his back and placed him in handcuffs. PO McKnight stated that he did not use any force in order to overcome § 87(2)(b)'s initial resistance. He denied lifting § 87(2)(b) or pushing him against a vehicle. Further, PO McKnight did not prepare a Threat, Resistance, Injury report in regard to this incident (Board Review 06) (addressed in the analysis of Allegation Z, below).

As noted above, the investigation obtained surveillance video from the exterior of 4646 Park Avenue, which captured § 87(2)(b)'s arrest:



Video Clip #1.mp4

4646 Park Avenue surveillance video – § 87(2)(b) arrest (25 seconds)
Board Review 07; Original video linked to IA #41

The surveillance video above does not capture the interaction between PO McKnight and § 87(2)(b) taking place immediately outside of the doorway to 4646 Park Avenue, as the doorway is obscured. However, the video reveals that PO McKnight maneuvered § 87(2)(b) from the doorway to the curb, supporting a significant portion of § 87(2)(b)'s bodyweight as he did so. § 87(2)(b)'s arms were raised above his shoulders and he did not move his body as PO McKnight maneuvered him, except to try to support his own bodyweight by placing his feet on the ground. Finally, the video shows that PO McKnight forcefully pushed § 87(2)(b) against the side of a parked vehicle, causing the right side of § 87(2)(b)'s abdomen to come into contact with the corner formed by the side of the vehicle and its roof, and causing the vehicle to rock.

PO McKnight reviewed the portion of video in question during his CCRB interview. He did not amend his testimony after reviewing the video.

According to NYPD Patrol Guide Procedure 221-01, an officer's use of force must be reasonable given the circumstances (Board Review 08).

§ 87(2)(g)
[Redacted text block]

Allegation B—Discourtesy: Outside of 4646 Park Avenue in the Bronx, Police Officer Richard McKnight spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that after PO McKnight apprehended him, PO McKnight asked, “Why were you running?” § 87(2)(b) replied, “Because I was scared.” PO McKnight replied, “Don’t give me that bullshit.”

PO McKnight did not remember if, after he handcuffed § 87(2)(b) they had any verbal exchange. He did not remember specifically if he asked § 87(2)(b) why he had been running, although he believed he likely asked such a question. He did not say to § 87(2)(b) “Don’t give me that bullshit,” or use any profanity.

As noted, the investigation obtained surveillance video of the arrest. However, the video does not include audio.

§ 87(2)(g)

Allegation C—Discourtesy: On § 87(2)(b) between Park Avenue and Third Avenue in the Bronx, Police Officer Luis Alicea spoke discourteously to § 87(2)(b)

§ 87(2)(b) (Board Review 09) stated that he exited his home, located at § 87(2)§ 87(2)(b) when he heard sirens, tires screeching, and people running on the street outside. An officer was running eastbound along § 87(2)(b) toward Flood Triangle. Meanwhile, two other officers were in an unmarked vehicle, also headed eastbound along § 87(2)(b). When a second vehicle, operated by an unidentified civilian, blocked the path of the officers' vehicle, an officer within the vehicle said over the loudspeaker, "Get the fuck out of the way. Move the fucking car."

Neither § 87(2)(b) (Board Review 10), whom the officers in question were pursuing, nor § 87(2)(b) (Board Review 11), nor § 87(2)(b) (Board Review 12) corroborated the allegation in question. The investigation was unable to obtain a statement from § 87(2)(b) and § 87(2)(b) was several blocks away, outside of 4646 Park Avenue, at the time.

It is undisputed that PO Alicea (Board Review 13), PO Martinez (Board Review 14), and PO Gil (Board Review 15) were in a vehicle together prior to the incident in question. They each stated that when they saw § 87(2)(b) running from them, PO Martinez and PO Gil exited the vehicle in order to pursue on foot. PO Alicea moved to the driver seat in order to follow them, although he maintained that he drove the vehicle westbound to Park Avenue when he entered the driver seat. (PO Martinez and PO Alicea also stated that the vehicle faced westbound on § 87(2)(b) with traffic, when they observed § 87(2)(b). PO Alicea encountered some traffic as he drove to Flood Triangle, but he denied using profanity toward the operator of any vehicle or making any statement via the vehicle's loudspeaker, and both PO Martinez and PO Gil denied ever hearing him make this remark.

§ 87(2)(g)

Allegation D—Discourtesy: On § 87(2)(b) between Park Avenue and Third Avenue in the Bronx, Police Officer Sandra Martinez spoke discourteously to § 87(2)(b)

Allegation E—Abuse of Authority: On § 87(2)(b) between Park Avenue and Third Avenue in the Bronx, Police Officer Sandra Martinez threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that as he fled from PO Martinez along § 87(2)(b) she yelled to him, "Stop running, motherfucker, before I Tase you." He did not see if she was armed with a Taser.

PO Martinez denied saying, “Stop running, motherfucker,” or using any profanity toward § 87(2)(b). She also denied saying that she could or would use a Taser against § 87(2)(b). She was not armed with a Taser and had not undergone Taser training as of March 25, 2018.

PO Alicea and PO Gil denied hearing PO Martinez use the phrase “motherfucker” or any other profanity, and they denied hearing her say that she could or would use a Taser against § 87(2)(b).

The CEW End User Certification Training status report for the 48th Precinct, obtained from the NYPD’s Training Bureau reveals that PO Martinez did not receive Taser training until August of 2018 (Board Review 16). Further, the 48th Precinct Taser sign-out sheet from March 25, 2018 reveals that PO Martinez did not sign out a Taser (Board Review 17).

§ 87(2)(g)

§ 87(2)(g)

Allegation F—At Flood Triangle in the Bronx, Police Officer Robert Wichers used physical force against § 87(2)(b).

Allegation G—At Flood Triangle in the Bronx, Police Officer Sandra Martinez struck § 87(2)(b) with a radio.

Allegation H—At Flood Triangle in the Bronx, Police Officer Sandra Martinez used physical force against § 87(2)(b).

§ 87(2)(b) stated that when he reached Third Avenue and turned southbound, he saw PO Wichers running toward him along Third Avenue. Cut off, § 87(2)(b) crossed the street to Flood Triangle. He knew that he could not avoid being apprehended and so he sat down on a park bench, waiting for PO Wichers and PO Martinez to reach him.

As § 87(2)(b) sat still on the bench, PO Wichers ran to him and tackled him, knocking him over onto the bench. He did not fall from the bench. He also did not attempt to fight back.

PO Martinez then reached § 87(2)(b) who had been knocked onto his side on the bench. PO Martinez immediately struck § 87(2)(b) on the left side of his mouth with her radio, lacerating his lower lip and later resulting in swelling around his jaw. PO Martinez instructed § 87(2)(b) to get on the ground, but he could not move because she was holding onto him. PO Martinez then punched § 87(2)(b) on the left cheek, near his left eye. Still, § 87(2)(b) did not resist. Finally, the officers placed § 87(2)(b) in handcuffs.

Later, upon arrival at Bronx Central Booking, § 87(2)(b) complained of pain to his face. He was returned to the 48th Precinct stationhouse. Officers transported him to § 87(2)(b) on March 26, 2018.

According to medical records from § 87(2)(b) (Privileged Documents; Board Review 02), § 87(2)(b) complained of jaw pain due to having been struck in the face with a “walkie talkie.” He did not sustain any fracture and was treated with ibuprofen.

The investigation received negative results for a medical treatment of prisoner report from both the 48th Precinct (Board Review 03) and from Bronx Court Section (Board Review 04).

Neither § 87(2)(b) nor § 87(2)(b) was present for § 87(2)(b)'s apprehension. However, § 87(2)(b) stated that when he arrived on scene, an unidentified bystander told him that a female officer had struck § 87(2)(b) in the face with a radio. § 87(2)(b) stated that when she arrived on scene, § 87(2)(b) told her that a female officer had struck him on the mouth.

Both PO Martinez and PO Wichers (Board Review 18) denied that § 87(2)(b) sat down on a bench before they reached him. Rather, they both stated that they caught up to § 87(2)(b) as he ran across the pavement at Flood Triangle, and that they took him to the ground together. PO Wichers described this as a “running tackle.” The officers did not recall how they took hold of § 87(2)(b) or how he landed on the ground.

PO Wichers did not recall if there was any struggle after he and PO Martinez took § 87(2)(b) to the ground. PO Martinez stated that § 87(2)(b) resisted arrest after they took him to the ground, but she did not recall the specific manner of his resistance. PO Martinez denied ever striking § 87(2)(b) with her radio and did not remember punching him. She did not recall what techniques she and PO Wichers used to overcome § 87(2)(b)'s resistance after they took him to the ground. PO Wichers also stated that he did not see PO Martinez punch § 87(2)(b) or strike him with a radio. Neither PO Martinez nor PO Wichers recalled § 87(2)(b) bleeding from his lip or sustaining any injury.

Note that, according to PO Martinez, she provided § 87(2)(b)'s direction of flight via radio as she pursued, before she caught up to him. An audio recording of police radio communications pertaining to this incident (Board Review 19 for audio; Board Review 20 for summary) confirm that at the 2 minute 16 second mark of the audio file, a female voice said, “Eastbound on Cyrus. Eastbound on Cyrus.”

PO Gil, who trailed behind PO Martinez as she pursued § 87(2)(b) stated that PO Wichers and PO Martinez caught up to § 87(2)(b) at the same time. Together, they performed a forcible takedown. § 87(2)(b) did not sit down on a park bench before the officers took him to the ground. PO Gil immediately ran to where § 87(2)(b) was lying, took hold of his arms, pulled them behind his back, and placed him in handcuffs. PO Gil did not recall § 87(2)(b) resisting at all. PO Gil did not see PO Martinez punch § 87(2)(b) or strike him with a radio. PO Gil also did not recall if § 87(2)(b) was injured.

Both PO Martinez and PO Wichers prepared Threat, Resistance, or Injury Incident Worksheets (TRIs) in regard this incident (Board Review 21 and 22, respectively), both of which indicate that the officers used a forcible takedown due to § 87(2)(b)'s flight and in order to overcome

“resistance or aggression,” and according to which § 87(2)(b) engaged in “wrestling/grappling.” The TRIs both note that § 87(2)(b) sustained “minor lacerations/abrasions.” PO Martinez’s TRI also indicates that she used a hand strike.

Cpt. Melendez, the PBBX Duty Captain who responded in order to investigate due to § 87(2)(b) § 87(2)(b)s call to IAB, conducted informal interviews of § 87(2)(b) PO Martinez, PO Wichers, and PO Gil, and summarized their statements and his own observations in an Investigating Supervisor’s Assessment Report (ISAR) (Board Review 23). According to this ISAR, the officers stated that when § 87(2)(b) tired of running, he took hold of a park bench and stiffened his body. The officers stated that the struggle lasted about thirty seconds, after which they were able to rear-cuff him. Cpt. Melendez observed that § 87(2)(b)s lip was bleeding and swollen. § 87(2)(b) told Cpt. Melendez that he held onto a park bench because he did not want the officers to touch him and he alleged that PO Martinez had struck him in the face with her radio. According to the ISAR, PO Martinez, PO Wichers, and PO Gil did not know how § 87(2)(b) had sustained his injury, but suggested that he may have injured himself on the bench while he held onto it, resisting arrest.

During their respective CCRB interviews, both PO Martinez and PO Wichers reviewed copies of the TRIs which they had each prepared. PO Wichers did not know if, when he noted § 87(2)(b)s “wrestling/grappling,” this referred to § 87(2)(b)s twisting and flailing his body as the officers took him to the ground, or to resistance after § 87(2)(b) landed on the ground. In accounting for the inclusion of § 87(2)(b)s “wrestling/grappling” on the report, PO Martinez described the encounter as a “tussle,” but she still could not recall the specific manner or § 87(2)(b)s resistance. The TRI did not refresh her recollection of the incident.

During her CCRB interview, PO Martinez also reviewed the ISAR, which, as noted above, indicated both that she told Cpt. Melendez that § 87(2)(b) had held onto a park bench and that § 87(2)(b) sustained an injury to his lip. Reviewing the ISAR did not serve to refresh PO Martinez’s recollection of the incident in any way. She recalled tackling § 87(2)(b) to the ground as he ran, mid-stride, and did not recall his sustaining any injury. PO Martinez also did not recall if a duty captain responded and did not recall providing any statement to a duty captain.

According to NYPD Patrol Guide Procedure 221-01, an officer’s use of force must be reasonable given the circumstances (Board Review 09).

While § 87(2)(b) alleged that PO Wichers knocked him over while he sat still on a bench, PO Wichers, PO Martinez, and PO Gil testified that PO Wichers and PO Martinez took him to the ground on the sidewalk as he fled from them. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)
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§ 87(2)(b)'s lip injury was documented in the ISAR. During his statement to Cpt. Melendez, in a statement to § 87(2)(b) staff, and in his CCRB statement, he was consistent in alleging that PO Martinez struck him with a radio. PO Martinez, PO Wichers, and PO Gil denied seeing § 87(2)(b)'s injury and, during their CCRB statements, did not provide any explanation for how it might have been sustained. As noted, PO Martinez denied ever striking § 87(2)(b) with a radio or punching him. Even though PO Martinez relayed the direction of flight via radio as she pursued § 87(2)(b) confirming that she carried her radio in her hand as she pursued him, there is no definitive evidence that she used the radio to strike § 87(2)(b) during his apprehension. PO Martinez denied punching § 87(2)(b) however, she noted the use of hand strikes in her TRI. § 87(2)(g)

Allegation I—Discourtesy: At Flood Triangle in the Bronx, Police Officer Miguel Donovan spoke discourteously to § 87(2)(b)

Allegation J—Offensive Language: At Flood Triangle in the Bronx, Police Officer Miguel Donovan made remarks to § 87(2)(b) based upon race.

Allegation K—Force: At Flood Triangle in the Bronx, Police Officer Miguel Donovan used physical force against § 87(2)(b)

§ 87(2)(b) stated that he arrived at Flood Triangle after officers had placed § 87(2)(b) in hand cuffs. § 87(2)(b) attempted to approach § 87(2)(b) who was seated on a park bench. However, PO Donovan said to § 87(2)(b) “Back the fuck up.” When § 87(2)(b) said, “That’s my son,” PO Donovan replied, “We know that’s your fucking son, but we got him now.” PO Donovan also said, “That nigga got some knives on him.” PO Donovan then again said, “Back the fuck up and get across the street.” § 87(2)(b) had not come near § 87(2)(b) and was still approximately 60 feet away from where § 87(2)(b) was seated. However, PO Donovan shoved § 87(2)(b) in the opposite direction several times.

Neither § 87(2)(b) nor § 87(2)(b) nor § 87(2)(b) described any interaction between § 87(2)(b) and any officer. § 87(2)(b) however, stated that PO Donovan said to § 87(2)(b) “Get the fuck back,” and pushed him.

PO Donovan (Board Review 24) stated that when § 87(2)(b) arrived on scene, he approached § 87(2)(b) and the officers standing around him and yelled profanities at the officers, although PO Donovan did not recall specifically what § 87(2)(b) said. PO Donovan said to § 87(2)(b) “Back up,” but he did not say, “Back the fuck up” or use any profanity toward § 87(2)(b). He did not remember saying, “We know that’s your fucking son.” He did not say to § 87(2)(b) “That nigga got some knives on him,” and never used offensive language with reference to race in conversation with § 87(2)(b). After PO Donovan instructed § 87(2)(b) to back up several times, § 87(2)(b) complied. PO Donovan did not recall pushing § 87(2)(b) or making any physical contact with him.

Each of the other officers interviewed in regard to this incident – Cpt. Melendez, Lt. Samuel Ravelo of the 48th Precinct (Board Review 25), PO Martinez, PO Gil, PO Wichers, PO McKnight, PO Alicea, PO Whitehead, PO Alvarado, and Sgt. McGarry (with whom PO Donovan was partnered) – either denied that PO Donovan made the alleged remarks and denied that he shoved § 87(2)(b) or stated that they did not recall him doing so.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation L—Discourtesy: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead spoke discourteously to § 87(2)(b)

Allegation M—Discourtesy: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead spoke discourteously to § 87(2)(b)

Allegation N—Discourtesy: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead spoke discourteously to § 87(2)(b)

Allegation O—Discourtesy: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado spoke discourteously to § 87(2)(b)

Allegation P—Discourtesy: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado spoke discourteously to § 87(2)(b)

Allegation Q—Discourtesy: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado spoke discourteously to § 87(2)(b)

Allegation R—Force: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead used physical force against § 87(2)(b)

Allegation S—Force: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead used physical force against § 87(2)(b)

Allegation T—Force: At Flood Triangle in the Bronx, Police Officer Curtia Whitehead used physical force against § 87(2)(b)

Allegation U—Force: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado used physical force against § 87(2)(b)

Allegation V—Force: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado used physical force against § 87(2)(b)

Allegation W—Force: At Flood Triangle in the Bronx, Police Officer Jennifer Alvarado used physical force against § 87(2)(b)

§ 87(2)(b) stated that when she, § 87(2)(b) and § 87(2)(b) attempted to approach § 87(2)(b) PO Whitehead and PO Alvarado both said to her, § 87(2)(b) and § 87(2)(b) “Get the fuck back.” Additionally, these two officers pushed § 87(2)(b) and § 87(2)(b) away from the park bench where § 87(2)(b) was seated. § 87(2)(b) believed that § 87(2)(b) was recording a video of these interactions.

§ 87(2)(b) stated only that an officer pushed her. She was not sober when she provided a phone statement to the investigation and could not recall the incident clearly. The investigation was unable to obtain any further information or any incident video from her.

As noted above, the investigation was unable to obtain a statement from § 87(2)(b). Further, neither § 87(2)(b) nor § 87(2)(b) described any officer using profanity of force toward their family members or neighbors.

PO Whitehead and PO Alvarado stated that when they arrived on scene, a group of nearby civilians were yelling at officers and attempting to approach § 87(2)(b). Due to their behavior and proximity to § 87(2)(b) they were interfering with the ongoing investigation. PO Alvarado, PO Whitehead, and other officers stood between the civilians and § 87(2)(b) and verbally instructed the civilians to move away. Both PO Whitehead and PO Alvarado denied ever pushing any of the civilians, saying “Get the fuck back,” or using any profanity. Further, they each denied that the other engaged in any of these behaviors.

Each of the other nine officers interviewed in regard to this incident stated either that no officer pushed or used profanity toward any civilian bystander or that they did not recall any officer doing so.

As noted above, the investigation obtained body-worn camera video recorded by PO Whitehead:



201802431_20180509_1207_DM.AVI

PO Whitehead body-worn camera video (2 minutes 57 seconds)
Board Review 26; Linked to IA #112

PO Whitehead’s body-worn camera video captured both her own and PO Alvarado’s interactions with § 87(2)(b) and a third, unidentified bystander (who may be § 87(2)(b)). At no time during these interactions did PO Whitehead or PO Alvarado make physical contact with or use profanity toward any of the civilians. PO Whitehead maintained that she did not have any further interactions with the civilians after the interactions captured in this video.

§ 87(2)(g)

Allegation X—Abuse of Authority: At Flood Triangle in the Bronx, Police Officer Sandra Martinez did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) stated that although § 87(2)(b) was bleeding from the mouth, when an ambulance arrived at Flood Triangle, PO Martinez said to the EMTs, “He’s alright.” PO Martinez was referring to § 87(2)(b) and told the EMTs that he did not need medical attention. PO Martinez then told the EMTs to leave. The ambulance departed without § 87(2)(b) having received any medical attention.

§ 87(2)(b) did not describe any interaction involving an EMT.

PO Martinez did not recall if an ambulance arrived on scene or if she spoke to any EMT. She maintained that she did not prevent any EMT from providing § 87(2)(b) with medical attention.

The investigation obtained statements from § 87(2)(b) (Board Review 27 and § 87(2)(b) (Board Review 28) of SeniorCare EMS, who responded to the incident in question. They stated that upon arrival, they learned that the victim of the robbery required medical attention at the 48th Precinct stationhouse. They did not observe any suspect or arrestee and did not learn of any injury to any suspect or arrestee. Further, they stated that no officer prevented them from providing medical treatment to any suspect or arrestee.

§ 87(2)(g)

Allegation Y—Discourtesy: At Flood Triangle in the Bronx, Captain Emilio Melendez spoke discourteously to individuals.

§ 87(2)(b) stated that when Cpt. Melendez arrived on scene, Cpt. Melendez said to PO Donovan, “Get their fucking asses across the street.” Cpt. Melendez was referring to all of the civilians gathered in the area, who had moved into the street in order to see § 87(2)(b) more clearly.

§ 87(2)(b) stated that a uniformed officer wearing a white shirt arrived on scene, but she did not hear him use any profanity. Neither § 87(2)(b) nor § 87(2)(b) nor § 87(2)(b) corroborated § 87(2)(b)'s allegation.

Cpt. Melendez stated that when he arrived on scene, he took command of the situation. He wanted the civilians present, who were yelling at officers and using profanity, to disperse. However, he did not remember whether or not he instructed officers to clear the civilians from the area. Further, he did not remember whether or not he make any remark similar to, “Get their fucking asses across the street,” or if he used profanity in regard to any of the civilians on scene. He believed that he might have made remarks such as these but did not recall. Cpt. Melendez stated that during a “heated” conversation or event, he might use “harsh language” such as this in order to gain compliance.

Each of the other nine officers interviewed in regard to this incident stated either that they did not hear Cpt. Melendez use profanity or that they did not recall him doing so.

Patrol Guide Procedure 203-09 requires that officers interact with members of the public in a professional manner (Board Review 29).

Cpt. Melendez acknowledged that the alleged use of profanity is of the sort which he would make under stressful circumstances. Further, he stated that he took command of the situation and wanted the civilians to disperse, and it is likely that he instructed officers to clear the civilians

from the area. However, he did not recall making any such remark, and neither § 87(2)(b) nor any other civilian corroborated § 87(2)(b)'s allegation. Additionally, there is no video evidence capturing Cpt. Melendez's activity on scene. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to three other CCRB complaints (Board Review 31):

- § 87(2)(b)

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- § 87(2)(b) has been a party to two other CCRB complaints (Board Review 32):

- § 87(2)(b)

- § 87(2)(b) has been a party to one other CCRB complaint (Board Review 33):

- § 87(2)(b)

- § 87(2)(b) has been a party to two other CCRB complaints (Board Review 34):
 - § 87(2)(b)
- § 87(2)(b) has been a party to two other CCRB complaints (Board Review 35):
 - § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 36).
- Cpt. Melendez has been a member of service for 28 years and has been a subject in eleven other complaints with nineteen allegations, none of which have been substantiated (Board Review 37).
- PO Alicea has been a member of service for six years and has been a subject in two other complaints with six allegations, none of which have been substantiated (Board Review 38).
 - § 87(2)(b)
- PO Wichers has been a member of service for three years and has been a subject in two other complaints with three allegations, none of which have been substantiated (Board Review 39).
- PO Alvarado has been a member of service for one year and this is the first complaint to which she has been a subject (Board Review 40).
- PO Whitehead has been a member of service for six years and has been a subject in one other complaint with one allegation, which is pending investigation (Board Review 41).
- PO McKnight has been a member of service for five years and has been a subject in four other cases with seven allegations (Board Review 42).
 - Case #201506961 involved a substantiated vehicle search allegation. The Board recommended Formalized Training and the NYPD imposed Formalized Training.
- PO Donovan has been a member of service for seven years and has been a subject in eight other CCRB cases with twenty allegations (Board Review 43).
 - Case #201301780 involved a substantiated frisk allegation. The Board recommended Instructions and the NYPD imposed Instructions.
 - Case #201508223 involved a substantiated physical force allegation (specifically, a punch). The Board recommended Command Discipline B and the NYPD imposed no penalty.
 - § 87(2)(b)
- PO Martinez has been a member of service for five years and has been a subject in six other complaints with nine allegations, none of which have been substantiated (Board Review 44).
 - § 87(2)(b)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of September 10, 2018, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regard to this incident (Board Review 45).

- According to the Office of Court Administration, neither § 87(2)(b) nor § 87(2)(b) nor § 87(2)(b) has any history of convictions in New York City. Note that § 87(2)(b) and § 87(2)(b)'s arrests pertaining to this incident are sealed.
- § 87(2)(b)

- § 87(2)(b)

- § 87(2)(b)

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date